

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 252 *
Case No. 78-17/77-26F
April 12, 1979

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on October 30, 1978. At this hearing session the Zoning Commission considered an application from Georgetown University for final approval of a Planned Unit Development and related Map Amendment to the Zoning Map of the District of Columbia.

FINDINGS OF FACT

1. This is an application for final approval under Article 75 of the District of Columbia Zoning Regulations for a Planned Unit Development (PUD). The filing also involves a change of zoning from SP-2 to C-3-B. The property contains approximately 57,250 square feet of land, bounded by Fifth, Sixth, and "E" Streets, N.W. (Square 489 - Lots 815, 818, 831, 832, and 833), and located in the area generally known as Judiciary Square.
2. The subject site was formerly the location of the Law Department of the Georgetown University, established at this site in 1898. The Law School now occupies a new facility recently constructed at 600 New Jersey Avenue, N.W. The subject site is now a commercial parking lot accommodating approximately 250 cars.
3. The Zoning Commission granted preliminary approval of the PUD and related map amendment by Order No. 213, dated April 13, 1978. The Commission specified guidelines, conditions, and standards in that order which governed the use, height, bulk, density, and design of the site.
4. The SP-2 District permits limited office and apartment use to a maximum floor area ratio (FAR) of 6.0 for apartment houses or other residential uses and a maximum of 3.5 FAR for hotel or other permitted uses, and a maximum height of ninety feet. Under the PUD process, the maximum permitted FAR is 6.0 and the maximum permitted height is 130 feet in the SP District.

*NOTE: This order was amended by Zoning Commission Order No. 287, dated June 14, 1979.

5. The C-3-B District permits a high bulk major business and employment center for office and retail commercial uses, to a maximum FAR of 6.5, and a maximum height of ninety feet. Under the PUD process the maximum permitted FAR is 7.0 and the maximum permitted height is 130 feet.
6. As adopted in 1958, the SP District in which this property is located was bounded by "Eye" Street on the north, 2nd Street on the east, "D" Street on the south and 6th Street on the west. In 1972, as part of the rezoning in the Mount Vernon East area, the SP District was expanded to include parts of Square 516 and 484 and all of the Square W-484. These squares are located southeast of Mount Vernon Square between "Eye" and "K" Streets, N.W. In June of 1977, Square W-484 was rezoned from SP back to C-3-B. To the north and east of Judiciary Square, a number of zoning changes have occurred primarily in furtherance of the Downtown Urban Renewal Plan.
7. In June of 1978, by Order No. 216, the Zoning Commission rezoned Squares 564, 566, 568, and 570 from SP to C-3-B. These squares are generally bounded by 2nd, 3rd, and "D" Sts., and Massachusetts Avenue, N.W. and are located to the east of Judiciary Square. Those squares immediately adjacent to Judiciary Square were left in the SP District at that time and the Commission indicated that individual applications for Planned Unit Developments for these properties were to be encouraged.
8. The property included in this application covers approximately three-fourths of Square 489. The remainder of the square is occupied by the offices of the Recorder of Deeds of the District of Columbia at Sixth and "D" Streets, N.W., two row structures which house offices and a carry-out restaurant, and a four-story structure at 506 Fifth Street, which houses a bondsman's office and law offices. The two buildings, at the corner of 5th and "D" Streets are historic structures, one being the old D.C. Jail House.
9. Square 489 is adjacent to the eastern edge of the central business district with C-3-B zoning to its immediate south, C-4 immediately west, and SP to the north and east. To the west, on Sixth Street between "D" and "E" Streets, are a nine-story office building and a ten-story office-retail building. South of this square are the new court facilities of the District of Columbia. East of the subject property is the U.S. Court of Military Appeals Building, the center portion of the Judiciary Square area including the Pension Building and the Old City Hall, the Municipal Center and the U.S. Department of Labor Building.

The square north of the subject property is devoted to a variety of uses, including the headquarters of the Salvation Army, a sightseeing company, law and bondsman's offices, and the new Engine Company No. 2 firehouse.

10. Judiciary Square is an area of unique architectural and historical character and of particular importance to the city as a whole. The Planned Unit Development process, under which the Zoning Commission can approve a specific site plan, height and bulk requirements, use restrictions and other design factors, is an appropriate method for controlling development on the site.
11. The site is within the area for which a master plan for Judiciary Square was developed in 1971 by the D.C. Department of General Services, and approved by the National Capital Planning Commission. The plan proposed the grouping of government office buildings adjacent to the Square. The plan proposed that new buildings be of uniform height, and be setback from Judiciary Square along both 4th and 5th Streets, N.W. Both the Washington Metropolitan Area Transit Authority (WMATA) building in Square 487 and the new firehouse in Square 488 have observed the setback along 5th Street. The master plan shows an office building for Square 489 with a height of ninety feet and a forty foot setback along the 5th Street frontage.
12. The PUD proposes the construction of a ten story office building with retail commercial uses on two floors, underground parking to accommodate a minimum of 237 cars based on the proposed FAR, and a minimum set-back along the Fifth Street frontage of forty feet.
13. The maximum height proposed is 120 feet, the total lot occupancy is approximately seventy-seven percent, and the proposed FAR is 7.0.
14. The applicant proposes to provide parking for 242 automobiles on the second and third cellar levels of the building.
15. The original atrium design was modified to accommodate a setback on the 5th Street side of the project. This set back area will be heavily landscaped and will be paved in brick. A ten foot deep arcade is provided along all street frontages of the building. Access to the retail shops is primarily by way of an interior lobby and there is no direct access to the retail areas from the 5th Street frontage. Access to the underground parking is from the southern end of the 6th Street side and is included within the building envelope. Service access is provided from 6th Street at two locations and a total of five loading berths are provided.

16. All facades of the proposed building will consist of buff-colored, precast concrete panels and bronze tinted windows. The proposed facade is similar in character to that of the WMATA building at 5th and "G" Streets, N.W., two blocks to the north. The first floor recessed arcade area will be faced with dark brown granite panels. The penthouse facing will consist of buff colored, precast concrete panels identical in color to the panels of the principal facades.
17. In granting preliminary approval to the application, the Zoning Commission established guidelines, conditions and standards applicable to the final application. As to those guidelines, conditions and standards, the Commission finds as follows:
 - a. The applicant filed an application for a map amendment from SP-2 to C-3-B with the application for final approval of a Planned Unit Development.
 - b. The floor area ratio (FAR) for the proposal is 7.0 with a lot occupancy of seventy-seven percent.
 - c. The height of the proposed building is 120 feet with a roof structure 18'-6" above the roof line.
 - d. The use of the building is restricted to office and supporting accessory uses, and retail space and supporting accessory uses with no retail uses visible nor directly accessible from Fifth Street. However, direct access to the retail space is provided from the Sixth and "E" Streets frontages, as appropriately controlled in the conditions set forth in this order.
 - e. Off-street parking, in accordance with minimum requirements of the C-3-B District, is provided on the second and third cellar levels and accommodates 242 automobiles.
 - f. Off-street loading facilities, in accordance with minimum requirements of the C-3-B District, is provided on the first level and accommodates loading for five vehicles.
 - g. Vehicle access to parking and loading areas is from Sixth Street.
 - h. Pedestrian access to retail levels is from the interior arcade, Sixth, and "E" Streets.
 - i. Parking for 25 bicycles is provided on the second cellar level.

- j. The Fifth Street frontage of the proposed building is set-back 39'-7" from the street line,
 - k. An eight-inch storm water retention capability on the roof of the proposed building has been provided.
 - l. The design of the exterior facade and materials of the building is in accordance with the requirements of the Municipal Center - Judiciary Square Master Plan.
18. The District of Columbia Municipal Planning Office (MPO) by memorandum dated October 26, 1978 and by testimony presented at the hearing recommended approval of the application on the grounds that the proposal conforms to the guidelines, conditions, and standards outlined in Order # 213. The MPO also believes that the proposal fulfills the requirements of Article 75 of the Zoning Regulations. The Commission so finds.
19. The D.C. Department of Transportation, by memorandum dated January 17, 1978, and by testimony at the preliminary hearing reported that it did not anticipate measurable adverse impacts due to the proposed development. Moreover, the Department stated that the existing transportation system can serve the project without requiring modifications or additional public expenditures. The Commission so finds.
20. The D.C. Department of Environmental Services, by report to the MPO of the preliminary hearings, established that there is sufficient water and sanitary sewerage capacity to service the proposed development. Solid waste management will be provided under private contract for which the Department has adequate disposal capacity. The Department stated that the trunk services for storm water management facilities be provided.
21. The applicant, as a part of its plan, will install a water retention system on the roof of the proposed building that will improve existing conditions and lessen the present impact on the storm water sewer system serving this area.
22. The Fire Department, by report dated November 28, 1977, indicated no adverse condition that would affect the operations of the Fire Department. The Commission so finds.
23. The Advisory Neighborhood Commission 2C submitted no report on this application.
24. The proposed action was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Government Reorganization Act on November 8, 1978. By letter dated December 13, 1978, the National Capital Planning Commission requested that the Zoning Commission postpone final action in the application for a period of sixty days to enable the NCPC to review the Judiciary
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Square Master Plan. At its public meeting held on December 14, 1978, the Zoning Commission deferred final action until its meeting held on February 8, 1979.

25. By Memorandum of Action, dated February 1, 1979, the National Capital Planning Commission reported to the Zoning Commission the following comments concerning the height and setback requirement of the Judiciary Square Master Plan:

- A. The master plan requirement for a forty foot setback along 5th Street and a thirty eight foot setback along 4th Street should be retained to create visual unity between the park-like setting of Judiciary Square and the office buildings that form the frame around the Square.
- B. The master plan limitation on the height of buildings at ninety feet to the top of the parapet line measured from the top of the curb opposite the building face fronting on Judiciary Square should be continued .
- C. The master plan requirements should be revised to permit floors above the second floor to project a maximum of ten feet over the building setback line to permit greater flexibility, provide the opportunity for more creative facade design, and encourage variation in the line of facades placed uniformly along the setback line.

26. The Zoning Commission discussed the comments of the Planning Commission at its public meeting held on February 8, 1979. The Zoning Commission finds that the retention of the setback from the street line is appropriate, for the reasons cited by the Planning Commission. The Zoning Commission finds that for those very reasons, the projection into the setback area at the upper floors is inappropriate, since the projection would effectively reduce the setback area to thirty feet, and the building would then be out of line with the WMATA building already constructed at the forty foot setback. The Zoning Commission finds that the establishment of a ninety foot height at the setback line is appropriate, to create a uniform frame for the Square out of the facades of the buildings facing the Square. The Zoning Commission further finds that it is appropriate to allow a greater height behind the original ninety foot height at the setback line, since this is a desirable location for high-density development adjacent to a Metro station within the downtown area and since the C-4 District permits a height of 120 feet or greater immediately across 6th Street to the west. The Zoning Commission determined at the February 8, 1979 meeting that such height in excess of ninety feet should be set back on a one-to-one basis and should not exceed 120 feet, which is the maximum permitted by the Act of 1910.

27. In order to further assess the impact of the proposed height and review how the proposed building would appear, the Commission held a further hearing on the matter on March 5, 1979. At that time, the applicant presented two alternative schemes for exceeding the ninety foot height. The first set of plans, marked as Exhibit 36 of the record, depicts a building with a vertical facade above ninety feet, set back thirty feet from the front of the building. The second set of plans, marked as Exhibit 43 of the record, depicts a building with a slanting facade above ninety feet, with the slant beginning approximately twenty-four feet back from the front of the building.
28. At the March 5, 1979 hearing, the Planning Commission presented a second Memorandum of Action, dated March 1, 1979, which reported that the height requirements as then proposed by the Zoning Commission would not have a negative impact on the interests of the Federal Establishment in the National Capital provided that the transition in height from ninety to 120 feet should take place within an additional minimum thirty foot set back in a manner which will minimize the visual impact which the additional building height will have when viewed from within the Municipal Center-Judiciary Square area.
29. The Zoning Commission finds that the requirement pertaining to height which it had already considered, in conjunction with the initial forty foot setback, would result in the 120 foot portion of the building being substantially removed from Judiciary Square itself, and that these setbacks would offset the impact of the additional height without requiring any further setback.
30. At the March 5, 1979 hearing, pursuant to Paragraph 7501.92, the applicant requested the Zoning Commission to allow the case to be processed under the revised planned unit development process, which had been approved by the Zoning Commission in February, 1979. The Commission finds that the case was heard and considered under the Regulations in effect prior to the recent revisions and that the integrity of the process is challenged by switching the process at the final stage of consideration of the application. The Commission further finds that the final design of the building has not been determined, pending review of building plans by both the Commission of Fine Arts and the Historic Preservation Review Board.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling the development of the subject site.
2. Approval of this final application is appropriate, because it is generally consistent with the present character of the area and because it would encourage stability of the area and land values therein.
3. Approval of this final application and change of zone from SP-2 to C-3-B is in harmony with the intent, purpose and integrity of the comprehensive zone plan of the District of Columbia, as embodied in the Zoning Regulations and Map.
4. Approval of this final application for a planned unit development and change of zone from SP-2 to C-3-B is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, Stat. 797), as amended.

DECISION

The Commission notes that in the consideration of this case, the Commission has also had before it a planned unit development application for property located on the east side of Judiciary Square. In reviewing both cases, the Commission has therefore looked at the entire Judiciary Square area, and has arrived at a decision which sets a uniform framing for design of buildings around the Square. The Commission notes however, that each case must be decided on the specific set of facts surrounding that property, that no two properties are identical and therefore that the decision in regard to this application cannot automatically serve as a precedent for other properties in the Judiciary Square area.

For the reasons stated in the findings of fact, the Commission hereby denies the request of the applicant to have the application considered under the revised planned unit development process.

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders APPROVAL of the final application for a Planned Unit Development and adoption of a change in zoning from SP-2 to C-3-B for lots 815, 818, 831, 832, and 833 in Square 489 bounded by 5th, 6th, "D", and "E" Streets, N.W., subject to the following guidelines, conditions, and standards:

1. The applicant shall be bound by all of the conditions contained in Order No. 213, dated April 13, 1978, which granted preliminary approval of the planned unit development, except as those conditions may be specifically amended by any subsequent conditions of this order.

2. The height of the building shall not exceed ninety feet at the front facade of the building as it faces Judiciary Square, which facade shall be set back thirty-nine feet, seven inches from the street line. Above the ninety-foot height, the building shall not project above a line drawn at a forty-five degree angle from the parapet of the front facade of the building, provided that the maximum height permitted shall be 120 feet. Roof structures may exceed the 120 foot limit, but shall not exceed eighteen feet, six inches in height above the roof upon which they are located, and further shall be set back from all edges of the roof upon which they are located a distance equal to one foot for each foot of height above the level of the roof upon which they are located.

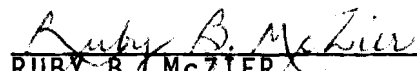
3. The final design of the building shall be based on the architectural drawings by Vlastimil Koubek, marked as Exhibit 36 of the record, as those plans may be modified by any conditions imposed herein, and further shall receive the approval of the Commission of Fine Arts and the Historic Preservation Review Board.

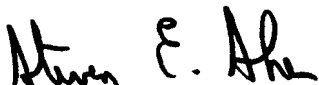
4. In regard to the first floor retail frontage on 5th Street:

- a. There shall be no display of goods or services associated with such retail uses.
- b. There shall be a maximum of fifty square feet of non-opaque glass area in each bay of the building.
- c. Any non-opaque glass shall be tinted to minimize passage of light through such glass.

5. In regard to the first floor retail frontage on "E" Street:
 - a. Conditions b and c of Item NO. 3 above shall apply to the facade.
 - b. Access to the retail uses in the arcade on the "E" Street side of the building shall be permitted from the arcade, provided that no such access shall be permitted in the bay closest to 5th Street.
 - c. Signs will be permitted in the "E" Street arcade, provided that the signs are located flat against the interior wall of the arcade, are back lighted and match the finish of the building.
6. Retail uses may be permitted in the first cellar level of the building. Such uses may front on the courts located in the setback area in front of the first floor of the building, provided there shall be no signs on or display in the court areas. There may be stairs located in the courts leading from the street level to the level of the courts.
7. There shall be evergreen plant material or other appropriate year round screening device in front of or along the wall of the historic structures located south of and adjacent to the setback area in front of the first floor of the building.
8. The principal exterior material shall be pre-cast concrete of buff-tone color similar to other new construction in the Judiciary Square area.
9. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.
10. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the planned unit development process.

The vote of the Commission taken at the public hearing of October 30, 1978: 3-0 (Walter B. Lewis, Theodore F. Mariani, and John G. Parsons, to approve - Ruby B. McZier and George M. White, not present not voting).


RUBY B. MCZIER
Chairperson
Zoning Commission


STEVEN E. SHER
Executive Director
Zoning Secretariat

This Order was adopted by the Zoning Commission at its public meeting held on April 12, 1979 by a vote of 4-1 (Theodore F. Mariani, George M. White, Walter B. Lewis and Ruby B. McZier to adopt, John G. Parsons opposed by proxy.

In accordance with Section 2.61 of the Rules of Practice and Procedure Before the Zoning Commission of the District of Columbia, the amendment to the Zoning Map is effective on _____.

- * NOTE: This order was amended by Zoning Commission Order No. 287, dated June 14, 1979.